

## REMARKS

In the Office Action, claims 1, 2, 6, 7, and 32 were rejected as allegedly being anticipated by Higo et al. United States Patent No. 5,908,400 (Higo) under 35 U.S.C. § 102(e). Applicant respectfully traverses this rejection. Claims 3-5, 8-11, 30-31 and 33 were rejected under 35 U.S.C. § 103(a). Applicant respectfully traverses this rejection as well. Claims 1 and 33 are independent claims. Claim 1 has been amended to include the word "and" between steps.

Higo fails to disclose or suggest every feature recited in applicant's claims. Independent claims 1 and 33 are directed to methods of forming an anhydrous reservoir layer of an electrode assembly. Higo teaches the use of a hydrated hydrogel matrix. Higo states at column 9, lines 45-46 that the "hydrophilic, polymeric gel has the function of releasing water therefrom, in which a drug has dissolved." Applicant's method claims involve forming an anhydrous reservoir later, and applicant's specification at column 15 discusses the shortcomings of hydrated hydrogels. Accordingly, Higo fails to disclose applicant's claimed invention. Higo actually teaches away from applicant's claimed invention.

In addition, both claims 1 and 33 include the limitation of disposing a hydratable agent-containing matrix within the electrode assembly. In Higo, the alleged hydratable agent-containing matrix 8 is first completely separated from the device, and even after it is attached to the device, it is not disposed within the electrode assembly. In Higo, the electrode 3 is located at the top of the device and the drug retaining membrane 8 is located on the bottom of the device, not within the electrode assembly. Accordingly, Higo fails to disclose this feature recited in claims 1 and 3, and actually teaches away from the claimed invention.

In view of the foregoing remarks, the application is believed to be in condition for allowance, and early notice to this effect is earnestly solicited. If allowance of this application may be expedited by resolution of simple issues through a telephone conference, the Examiner is welcome to call the undersigned.

Applicant submits a petition and a fee for a two-month extension of time under 37 C.F.R. 1.136 and 1.17(a)(2). Applicant authorizes the USPTO to charge any necessary

fee or surcharge with respect to said time extension to the deposit account of the undersigned attorney, Deposit Account No. 50-3329.

Dated: April 29, 2005

Respectfully submitted,

By   
\_\_\_\_\_  
Scott S. Servilla

Registration No.: 40,806  
NORTON & DIEHL LLC  
77 Brant Avenue, Suite 110  
Clark, New Jersey 07066  
(732) 815-0400

Attorney for Applicants